

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT
PROBATE DIVISION
Court File No. 82-PR-18-2244

In the Matter of the Civil Commitment of:

Matthew David Feeney,

Respondent.

**PETITION FOR JUDICIAL
COMMITMENT AS A
SEXUALLY DANGEROUS PERSON
AND SEXUAL PSYCHOPATHIC
PERSONALITY**

The undersigned Assistant Washington County Attorney, on behalf of the Petitioner, Pete Orput, Washington County Attorney, to the best of his knowledge, information, and belief, respectfully represents to the Court:

1. The Petitioner has determined good cause to file this Petition pursuant to Minn. Stat. § 253D.07;
2. The Respondent was born on July 12, 1968;
3. The Respondent is currently in the custody of the Minnesota Department of Corrections (DOC) serving a criminal sentence on a conviction entered into Washington County District Court (file number 82-CR-12-2449);
4. The Respondent is currently incarcerated in the Minnesota Correctional Facility located in Moose Lake, (OID # 173012, 1000 Lake Shore Drive, MN 55767);
5. The Respondent's current anticipated release date from incarceration at the Minnesota Correctional Facility is on or around July 1, 2019;
6. It is anticipated that on or around July 1, 2019 the Respondent will be transferred to a prison in Massachusetts to serve a five-year sentence for his conviction in Bristol County Superior Court for the crime of Indecent Assault and Battery on a Person 14 or Over (three counts), Enticing a Child Under 16, and Unnatural Act with a Child committed in December 2010;
7. Prior to the Respondent's most recent period of incarceration, the Respondent resided at 9853 Hamlet Lane S in Cottage Grove, Washington County, Minnesota;
8. The Respondent is a resident of Washington County and Washington County is the County of Financial Responsibility for the Respondent pursuant to Minn. Stat. Chapter 256G;
9. The Respondent has the following criminal offense history:

Convicted Sexual Offense History:

- a) **Indecent Assault and Battery on Person 14 or over (three counts), Enticing a Child Under 16, and Unnatural Act with a Child convictions** in Bristol County Superior Court in Massachusetts concerning multiple offenses occurring during the time period of December 8 – 11, 2010 in the city of Norton, Massachusetts. (The Respondent, while visiting the home of his cousin, sexually assaulted his cousin's 14-year-old son, M.B., while staying as a guest in their home. During the course of several days, the Respondent repeatedly rubbed M.B.'s arms, legs and back. On or around December 10, 2010, M.B. woke up to find the Respondent in his bed, rubbing his stomach, thigh and then "privates." The Respondent then inserted his hand into M.B.'s sweatpants and rubbed his penis for 10-15 minutes to the point of ejaculation. Subsequently the Respondent would inquire into whether M.B. smoked and drank and offered to buy him things to come to Minnesota. The Respondent was indicted on charges of Indecent Assault and Battery on Person 14 or over, Enticing a Child Under 16, and Unnatural Act with a Child. While these charges were pending, in 2015, M.B. informed investigators that more sexual contact occurred on or around December 10, 2010 than he previously disclosed. M.B. reported that the Respondent performed oral sex on him to the point of ejaculation. The Respondent then laid next to M.B. and masturbated himself to the point of ejaculation. The Respondent then rubbed M.B.'s penis until he ejaculated again. The Respondent was indicted with two more counts of Indecent Assault and Battery on Person 14 or over and one count of Rape of a Child. The Respondent pleaded guilty Indecent Assault and Battery on Person 14 or over (three counts), Enticing a Child Under 16, and Unnatural Act with a Child. The Respondent was sentenced to five years to run consecutive to the sentence he is currently serving in the Minnesota Correctional Facility on Washington County District Court case file number 82-CR-12-2449);
- b) **Criminal Sexual Conduct in the 2nd Degree and Criminal Conduct in the 4th Degree convictions** in Washington County District Court for multiple offenses occurring during the time period of May 1, 2009 through December 1, 2011. *See* Washington Co. Dist. Crt. file no. 82-CR-12-2449. (In March 2012, two brothers, R.P.B. and C.P.B, ages 11 years and 17 years, respectively, reported that the Respondent had sexually assaulted them several years prior. The Respondent was the owner and casting director of a company where he assisted in casting actors, often juveniles, for parts as extras in movie and television productions. Through this position, the Respondent befriended the boys' family and had the children spend the night at his residence, watching movies and playing video games. The Respondent also took the boys on outings and camping. The Respondent frequently communicated with C.P.B. via text messaging and persisted in luring C.P.B. to his residence with promises of movies, video games, and work for which the Respondent would pay C.P.B. money. C.P.B. reported that when he was 14 years-of-age, the Respondent put his hands into his pants and masturbated him to ejaculation and that that behavior occurred six to seven additional times between May 2009 and the summer of 2011. R.P.B. reported that when he was nine years-

of-age, the Respondent put his hands into his pants and rubbed his penis and that the Respondent abused him in the same way on a number of other occasions between December 2009 and November 2011. R.B.P reported that he pushed the Respondent's hand away on several occasions, but it continued. The Respondent was charged with two counts of Criminal Sexual Conduct in the Second Degree. The Respondent pleaded guilty to one count of Second Degree Criminal Sexual Conduct and one count of Fourth Degree Criminal Sexual Conduct and sentenced to 109-month and 54-month sentences, respectively);

- c) **Criminal Sexual Conduct in the Fourth Degree and Criminal Sexual Conduct in the Fifth Degree convictions** in Aitkin County District Court for multiple offenses occurring sometime in the summer of 1991 in Shamrock Township, Aitkin County, Minnesota. *See* Aitkin Co. Dist. Ct. file no. K6-92-111. (Respondent, who was 22-23 years-of-age at the time, served as a counselor at a Catholic church youth camp and had sexual contact with two minors who attended the camp, E.F. and C.D. E.F., who was 15 years-of-age, reported that the Respondent rubbed his back and that he fell asleep to awake to the Respondent rubbing E.F.'s buttocks over his sweatpants. The Respondent then inserted his hand into E.F.'s sweatpants and began rubbing E.F.'s buttocks. E.F. reported that this occurred four or five times and that he felt uncomfortable and would move away from the Respondent. C.D., who was 13 years-of-age, reported the Respondent had sexually contacted him on two occasions. Both occasions began by the Respondent giving C.D. a back rub. The Respondent then touched C.D.'s penis over C.D.'s clothing and then inserted his hand into C.D.'s shorts and touched C.D.'s penis. On both occasions, C.D., immediately left the cabin. The Respondent was charged with two counts of Fourth Degree Criminal Sexual Conduct and pleaded guilty to one count of Fourth Degree Criminal Sexual Conduct and one count of Fifth Degree Criminal Sexual Conduct);
- d) **Criminal Sexual Conduct in the Fourth Degree conviction** in Aitkin County District Court for an offense occurring sometime during the week of August 12-15, 1991 at a Catholic youth camp in Shamrock Township, Aitkin County, Minnesota. *See* Aitkin Co. Dist. Ct. file no. K0-92-38. (Respondent, who was 23-years-of-age at the time, served as a director of volunteers at the camp and had sexual conduct with one of the volunteers, A.B., who was 15-years-of-age at the time. A.B. and another juvenile fell asleep in the Respondent's bed. A.B. awoke to find the Respondent lying in between of the two boys and the Respondent had his hand under A.B.'s clothing and was touching A.B.'s penis. A.B. rolled over causing the Respondent to remove his hand. The Respondent then again inserted his hand in A.B.'s underwear and began stroking A.B.'s penis. A.B. grabbed the Respondent's hand and pulled it away and A.B. then left the cabin. The Respondent subsequently admitted to the authorities that he touched A.B.'s penis in an attempt to masturbate A.B. The Respondent pleaded guilty to Criminal Sexual Conduct in the Fourth Degree);

- e) **Criminal Sexual Conduct in the Fourth Degree conviction** in Stearns County District Court for an offense occurring in the fall of 1990 in the city of St. Joseph. See Stearns Co. Dist. Ct. file no. K2-92-2276. (A juvenile male, T.M.G., reported that at age 13 he spent a night at the Respondent's residence and woke up to find the Respondent, then age 22, pinching the tip of his penis. T.M.G. reported that the touching was painful and that it lasted for approximately ten minutes. The Respondent was interviewed on or around January 13, 1992 and subsequently acknowledged that he had also sexually abused several other young boys by touching and caressing their genitals while they were asleep. Investigators learned that the Respondent kept a journal where he made references to his sexual interest in young boys. The journal identified T.M.G., among others, as a person the Respondent has "harmed" in ways having to do with the Respondent's sexuality. The Respondent entered into a plea deal to plead guilty to Criminal Sexual Conduct in the Fourth Degree in exchange for the prosecutor not criminally charging the Respondent with a second count of criminal sexual conduct against another individual);

Alleged Sexual Offense History:

- a) In September/October 2012, St. Croix County Sheriff's Office received a report from B.G. and his mother concerning an incident involving the Respondent while camping at Willow River State Park in Hudson Township in Wisconsin on or around June 12, 2010 when B.G. was 10-years-of-age. B.G. reported that while he and the Respondent were sleeping in the same tent, the Respondent attempted to take off B.G.'s pants without his consent. The Respondent was not criminally charged, however the report was forwarded the Washington County Attorney's Office who was prosecuting the Respondent under Court file number 82-CR-12-2449;
- b) The Respondent reported that he acted out sexually ("experimentally" in his words) with his young brother when they were growing up;
- c) According to a May 24, 2013 Repeat Offender Mandatory Assessment, the Respondent reported sexually molesting approximately 10 minor males, most of who were sleeping at the time. According to the October 18, 2016 Minnesota Sex Offender Program (MSOP)-DOC Site Discharge Summary, the Respondent acknowledged more unreported offenses, but had been directed by his lawyer not to discuss them;
- d) According to a Diagnostic Assessment dated April 16, 2012 from the Program in Human Sexuality Center for Sexual Health, the Respondent estimated that he had sexual contact with approximately 12 minors, involving masturbation and oral sex, typically while the minors were sleeping;
- e) During his SPP/SDP screening review with Jeff Olson, M.S., L.P., on or around April 9, 2018, the Respondent acknowledged there are additional victims of his sexual behavior besides the ones acknowledged in his offenses and the "list of ten"

he noted in the 1990s;

- f) On or around January 17, 1992, the Respondent provided to the Aitkin County Sheriff's Department a handwritten journal, listing at least ten juveniles whom the Respondent had sexual contact with (six of whom were victims of crimes not criminally prosecuted). The Respondent admitted that he used the same type of scenario on all of his victims; he would wait until they fell asleep and then he would fondle their genitals;

10. The Respondent has had the following sex offender treatment:

Sexual Offender Treatment History

- a) Subsequent to the Respondent's convictions for his offenses committed in 1991-92, the Respondent participated in court-mandated sex offender treatment at the University of Minnesota Program in Human Sexuality. The Respondent transferred his treatment to Transition Place, which he completed;
- b) In February 2012, the Respondent entered treatment at the University of Minnesota Program, but discontinued after he was required to discuss his pending charges in Bristol County, Massachusetts. The Respondent engaged in treatment at Sawyer Solutions until his sentencing on the Washington County criminal convictions;
- c) After his conviction on the Washington County charges, the Respondent entered the Minnesota Sex Offender Program (MSOP) at MCF-Moose Lake on September 23, 2013. The Respondent was discharged on or around September 30, 2016 after he was transferred to Massachusetts on his charges in Bristol County Superior Court; the Respondent was in phase II of the treatment at the time of his discharge;

11. The Respondent has had at least two institutional infractions resulting in segregation, including the following incident:

- a) On or around May 13, 2016 the Respondent engaged in verbal abuse ("You're an asshole, fuck you!"), resulting in discipline 20 days segregation time;

12. The Respondent has been diagnosed as having a sexual, personality, or other mental disorder or dysfunction, as follows:

- a) Per May 24, 2013 Repeat Offender – Mandatory Assessment: Paraphilia NOS – Hebephilia – Nonexclusive Type, and Narcissistic Traits;
- b) Per October 24, 2013 MSOP – DOC Site – Sexual Offender Assessment: Paraphilia NOS, Sexual Abuse of Child, and Narcissistic Personality Disorder with Histrionic Features;

- c) Per Report of Dr. Michael Thompson dated January 21, 2019, *see infra* Exh. 3: Pedophilic Disorder;¹
- d) The Respondent has been assessed using the following actuarial tools that are used to predict the likelihood of sexual re-offending:
 - a) The Respondent's predictive probability of sexually recidivating within a four-year post-incarceration period using the the MnSOST-3.1.2 is **83.17%** (95% Confidence Interval: 64.80% - 99.94%), which places him in the **99.70 percentile** of the development sample (meaning that only .3% of the development sample scored higher on this instrument than the Respondent);²
 - b) The Respondent's score on the Static-99R is **+5**, which places the Respondent in the **above-average risk category**; when compared to a representative sample of adult male sexual offenders, the Respondent's score falls between the **81st and 90th percentiles**;

13. Agents with the DOC forwarded this matter to the Petitioner for consideration of commencing civil commitment proceedings against Respondent as a sexually dangerous person and/or sexual psychopathic personality;

14. Attached as Exhibits One and Two, respectively, and hereby incorporated by referenced into this Petition are the Recommendation to the Commissioner of Corrections and the SPP/SDP Review Report concerning the Respondent;

15. In anticipation of the Respondent's release from DOC custody, on or around January 19, 2019, the DOC End of Confinement Review Committee conferred and assigned the Respondent as a level "three" sex offender;

16. Pursuant to Minn. Stat. § 253D.08, Petitioner motioned the Court for an order to access to the Respondent's records, to which the Court granted on or around May 24, 2018;

17. Petitioner retained the services of Dr. Michael Thompson, M.S.W., Psy.D., L.P. to review the available records and provide an opinion to the Petitioner as to whether the Respondent meets criteria for civil commitment as either a "sexually dangerous person" ("SDP") as defined by Minn. Stat. § 253D.02, subd. 16 and/or a person who has a "sexual psychopathic personality" ("SPP") as defined by Minn. Stat. § 253D.02, subd. 15;

18. Attached hereto as Exhibit Three and hereby incorporated into this Petition by

1. Diagnosis solely based upon review of the Respondent's records; Dr. Thompson has not had the opportunity for direct evaluation of the Respondent and acknowledges that his diagnosis is limited as such. *See* Exh. 3.

2. The MnSOST-3.1.2. was developed on a population of adult male incarcerated offenders who were convicted of either a sex or sex-related offense.

reference is the report of Dr. Michael Thompson dated January 21, 2019 opining that the Respondent meets criteria for civil commitment as a sexual psychopathic personality and a sexually dangerous person;

19. Based upon the foregoing and the attachments to this Petition, it is believed that the Respondent is a "sexual psychopathic personality" and/or "sexually dangerous person" as defined by Minn. Stat. § 253D.02, subds. 15 & 16, respectively, and should be civilly committed to a secured treatment facility as defined by Minn. Stat. § 253D.02, subd. 13 and that there is no lesser restrictive alternative than civil commitment to said facility that would be consistent with the Respondent's treatment needs and the requirements of public safety;

20. Venue to hear this commitment proceeding in Washington County District Court is appropriate pursuant to Minn. Stat. § 253D.07, subd. 1;

WHEREFORE, the Petitioner prays that the following disposition be made:

- 1) Appoint counsel to represent the Respondent in these proceedings and hear this matter pursuant to Minn. Stat. § 253D, *et seq.*;
- 2) Adjudicate the Respondent as a "sexual psychopathic personality" as defined by Minn. Stat. § 253D.02, subd. 15 and/or a "sexually dangerous person" as defined by Minn. Stat. § 253D.02, subd. 16;
- 4) Order civil commitment of the Respondent to the Commissioner of Human Services to be held in a secure treatment facility for an indeterminate period of time upon his release from incarceration;
- 5) In the event the Respondent is released from incarceration prior to hearing and determination of this Petition, order Respondent to be held either in a secure treatment facility or temporarily confined pursuant to Minn. Stat. § 253D.10 until hearing and determination is made on this Petition;
- 6) Any and all other relief as the Court deems appropriate and necessary.

Respectfully submitted,

PETE ORPUT, COUNTY ATTORNEY
WASHINGTON COUNTY, MINNESOTA

Dated: Feb 8, 2019

BY: 

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651-430-6115

ACKNOWLEDGMENT REQUIRED BY MINN. STAT. § 549.211

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211, costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

/s/ James Zuleger

James Zuleger